

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

ERIC A. HAPEMAN,

Petitioner,

v.

Case No. 2:08-cv-226
HON. R. ALLAN EDGAR

JERI-ANN SHERRY,

Respondent.

MEMORANDUM AND ORDER

Petitioner Eric A. Hapeman, a Michigan state prisoner in the custody of the Michigan Department of Corrections, filed a petition for writ of habeas corpus under 28 U.S.C. § 2254. On June 24, 2011, Magistrate Judge Timothy P. Greeley submitted his report and recommendation. It is recommended that the habeas petition be denied and dismissed with prejudice, and that a certificate of appealability be denied under 28 U.S.C. § 2253(c)(2).

The Court granted petitioner Hapeman an extension of time until August 22, 2011, to file objections. Petitioner Hapeman has not timely filed any objections to the report and recommendation.

After reviewing the record, the Court **ACCEPTS and ADOPTS** the report and recommendation pursuant to 28 U.S.C. § 636(b)(1) and W.D. Mich. LCivR 72.3(b). The Court concludes that the habeas petition brought under 28 U.S.C. § 2254 is without merit. The habeas petition shall be **DENIED and DISMISSED WITH PREJUDICE**.

If petitioner Hapeman files a notice of appeal, it will be treated as an application for a certificate of appealability which shall be **DENIED** pursuant to 28 U.S.C. § 2253(c)(2); Fed. R. App. P. 22(b)(1); and *Slack v. McDaniel*, 529 U.S. 473, 484 (2000), for the same reasons expressed in the report and recommendation. Petitioner Hapeman has not made a substantial showing of the denial of a federal constitutional right. Reasonable jurists could not find that dismissal of the habeas petition is debatable or erroneous.

The Court **CERTIFIES** pursuant to 28 U.S.C. § 1915(3) and Fed. R. App. P. 24(a) that any appeal from the decision and judgment in this case would be frivolous and not taken in good faith.

A separate judgment will enter.

SO ORDERED.

Dated: September 13, 2011.

/s/ R. Allan Edgar

R. ALLAN EDGAR
UNITED STATES DISTRICT JUDGE